Court to determine only the issues raised by the complaint and the denials in the answer. *Dyett* v. *Harney,* (Colo. 1912), 127 Pac. 226.

The great weight of authority seems to be in accord with the decision announced in the principal case on the first proposition; besides cases therein cited, see *Robinett* v. *Nunn,* 9 Mo. 244; *Barber* v. *Kennedy,* 18 Minn. 216; *General Electric Co.* v. *Williams,* 123 N. C. 51; *Corley* v. *Evans,* 69 S. C. 520. Upon the side maintained by the defendant in the principal case, are *Howard Iron Works* v. *Elevating Co.,* 176 N. Y. 1; *Heigle* v. *Willis,* 50 Hun. (N. Y.) 588; *Bowman* v. *Gary,* Minor (Ala.) 326; and *McClain* v. *Kincaid,* 5 Yerg. (Tenn.) 232. The latter case indeed is not directly contra, but adopts a compromise, holding that although no settlement had been pleaded, nevertheless it may be done on appeal, if after plaintiff's claim is deducted from defendant's set off, the amount then remaining is not in excess of the lower court's jurisdiction. *Bennett* v. *Forrest,* 69 Fed. 421, allows the counterclaim to be set up, but if established, judgment might only be rendered for the amount of which the court had jurisdiction. The general rule of law seems to be in accord with the principal case that jurisdiction depends on the nature of the relief sought, not upon the facts as shown, and that where jurisdiction has once attached, it can not later be ousted, *Windsor* v. *McVeigh,* 93 U. S. 274; *Reynolds* v. *Stockton,* 140 U. S. 254; *Burch* v. *Davenport R. R. Co.,* 46 Ia. 449; *Neale* v. *Utz,* 75 Va. 480; *Succession of Hoover,* 30 La. Ann. 752.

LARCENY—UNSTAMPED RAILROAD TICKET THE SUBJECT OF LARCENY.—Defendant was indicted for the larceny of a railroad ticket. The evidence showed that he took an unstamped ticket from the ticket office. Under the statute it was larceny to steal a "railroad, railway, steamboat or steamship passenger ticket." *Held,* that under this statute, the railroad ticket, though not stamped, was the subject of larceny. *State* v. *Wilson* (Ore. 1912) 127 Pac. 980.

The decision is based upon the particular statute in the case, the Court concluding that the legislature intended to include unstamped railroad tickets as well as stamped tickets as subjects of larceny. Unstamped railroad tickets have not generally been regarded by the Courts and text-writers as the subjects of larceny. "A passenger ticket stolen from the ticket office of a railroad company before it has been stamped and dated is not the subject of larceny." 25 CYC. 13. "An unstamped, undated and unsigned railroad ticket is not the subject of larceny." *McCarty* v. *State,* 1 Wash. 377, 25 Pac. 299. "An incomplete engagement—e. g. an unstamped and undated railroad ticket—is not the subject as such of larceny." 2 WHARTON, CRIM. LAW (11 Ed.) § 1116. And in *Peo.* v. *Loomis,* 4 Denio 380, it was held that a receipt not made effective by being issued or delivered is not the subject of larceny. The Court said that a receipt must be "a genuine and effective instrument when stolen, or the crime of larceny cannot be committed." It would seem that as the ticket stolen in the principal case was unstamped and unissued it could not properly be regarded as a complete or effective contract, receipt, or token; in short, it could not be strictly denominated a "railroad ticket." Although the decision of the Court is the result of a rather liberal construction of a penal statute, it is evidently in conformity with the general intention of the

legislature to greatly increase the classes of things which may be the subjects of larceny.

MARRIAGE OF MINOR—WHAT LAW GOVERNS ANNULMENT.—Suit was brought to annul a marriage on the ground that plaintiff was under age at the time the supposed contract was entered into. The parties were both domiciled in New York, and had been refused a license to marry in that State. They went to New Jersey and were married, and returned to New York. It was admitted that by the law of New Jersey such marriage was valid; under the New York law non-age was a ground for annulment. *Held,* The marriage is invalid and should be annulled. *Cunningham* v. *Cunningham,* (N. Y. 1912) 99 N. E. 845.

Generally, of course, the validity of a contract of marriage depends upon the *lex loci contractus.* TIFFANY, PERSONS & DOMESTIC RELATIONS, 48; STORY, CONFLICT OF LAWS § 113; *Ex parte Chase,* 26 R. I. 351, 58 Atl. 978, 69 L. R. A. 493; *Com.* v. *Graham,* 157 Mass. 73, 31 N. E. 706, 16 L. R. A. 578, 34 Am. St. Rep. 255; *Sturgis* v. *Sturgis,* Ore. 93 Pac. 696. An exception to this general rule exists where the marriage is polygamous, incestuous, or against common morality. *McClennan* v. *McClennan,* 31 Ore. 480, 50 Pac. 802, 38 L. R. A. 863, 65 Am. St. Rep. 835; *Johnson* v. *Johnson,* Wash. 106 Pac. 500. A second exception to the general rule exists where the marriage is one expressly prohibited by the law of the domicile as contrary to the public policy thereof, and the ceremony is performed in another state to evade that law. *In re Stull's Estate,* 183 Pa. 625, 39 Atl. 16, 39 L. R. A. 539, 63 Am. St. Rep. 776; *State* v. *Fenn,* Wash. 92 Pac. 417. But see contra, *State* v. *Hand,* Neb. 126 N. W. 1002. TRACY, J., in *Thorp* v. *Thorp,* 90 N. Y. 602, 43 Am. Rep. 189, says, "The validity of a marriage contract is to be determined by the law of the place where entered into. If valid there it is to be recognized as such in the courts of this State, unless contrary to the prohibitions of natural law, or the express prohibitions of a statute." It is within the power of the legislature to change these rules of private international law; but in the absence of express provisions it is not to be lightly inferred that it has done so. *Van Voorhis* v. *Brintnall,* 86 N. Y. 18, 40 Am. Rep. 505. In the principal case there was no express prohibition upon the said marriage. There was merely a statute providing that non-age of one of the parties to a marriage contract was a ground for annulment at the application of that party; and it seems that a proper construction of such a statute would give it no extraterritorial effect. Hence it is submitted that the decision in the principal case is wrong, as the facts of the case do not bring it within an exception to the general rule that the *lex loci contractus* controls. The dissenting opinion of WERNER, J., presents what seems to be the better decision. See further on this point, the note to *Hills* v .*State,* 61 Neb. 589, 85 N. W. 863, 57 L. R. A. 155.

MASTER AND SERVANT—LIABILITY OF EMPLOYER FOR ACTS OF INDEPENDENT CONTRACTOR.—Plaintiff sold the pine timber on a certain tract of land to defendant's grantor, reserving certain timber on portions of the land which was not to be cut. Thereafter, defendant employed S to remove the timber owned by it, but instead of cutting that alone, S also cut some of the timber